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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,153	02/26/2002	Ronald W. Reynolds	REYN-25,923	2655
25883	7590	07/25/2005	EXAMINER	
HOWISON & ARNOTT, L.L.P P.O. BOX 741715 DALLAS, TX 75374-1715			JIMENEZ, MARC QUEMUEL	
			ART UNIT	PAPER NUMBER

3726

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/086,153

Applicant(s)

REYNOLDS, RONALD W.

Examiner

Marc Jimenez

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-50 and 52-75 is/are pending in the application.
- 4a) Of the above claim(s) 20,22-48,60,62,74 and 75 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 49,50,52-59,61 and 73 is/are allowed.
- 6) ☒ Claim(s) 1-4,7,10,14,18,19,21 and 63-72 is/are rejected.
- 7) ☒ Claim(s) 5,6,8,9,11-13 and 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/21/05 has been entered.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1, 18, 19, 21, 63-65, and 67-72** are rejected under 35 U.S.C. 102(b) as being anticipated by Winkler (US3522643).

Winkler teaches a cylindrical body 4 having an exterior surface, first and second open ends and defining an interior tubular space along a longitudinal axis therethrough for receiving an axle 1 therein, the cylindrical body 4 formed of polymeric material (col. 2, lines 4-5), the cylindrical body 4 having a diameter at the first and second ends (see below lead lines 7 and 8) that is smaller than a diameter thereof at at least one intermediate location (see the apex near lead

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lines 7 and 8) along the longitudinal axis thereof with at least a portion of the exterior surface from the first end to the intermediate location and the second end to the intermediate location has a positive slope with respect to the longitudinal axis, and an outer shell 2 formed of metal (col. 1, line 62) proximately and conformally covering the exterior surface of and having a formed circular opening surround each of the first and second ends of the cylindrical body 4, wherein the cylindrical body 4, the outer shell 2, and the circular openings are concentric with the longitudinal axis, the outer shell 2 disposed about the cylindrical body 4 after formation of the cylindrical body 4.

Regarding claim 18, the outer shell 2 forms a crowned outline.

Regarding claim 19, the cylindrical body 4 has a wall thickness substantially thicker than the metal of the outer shell 2.

Regarding claim 21, the cylindrical body 4 is electrically conductive.

4. **Claims 63-67** are rejected under 35 U.S.C. 102(b) as being anticipated by Skates (US3010332).

Skates teaches an outer tubular shell 12 having a first end and second end with an exterior surface and an interior surface and with a varying inner diameter from the first and second ends inward therefrom to an intermediate location such that the inner diameter of a central portion 8 at the intermediate location thereto is greater than the inner diameter at the distal ends 7 with at least a portion of the exterior surface from the first end to the intermediate location and the second end to the intermediate location having a positive slope with respect to the longitudinal axis, and an inner support structure 11 disposed proximate the interior surface of the outer

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tubular shell 12. Regarding the limitations pertaining to the method of forming the roll, the patentability of product does not depend on its method of production. *In re Thorpe*, 777 F.2d 695, 697, 227 USPQ 964, 966 (Fed. Cir. 1985) (citing *In re Pilkington*, 411 F.2d 1345, 1348, 162 USPQ 145, 147 (CCPA 1969)). If a product in a product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product is made by a different process. *Id.* citing *In re Marosi*, 710 F.2d 799, 803, 218 USPQ 289, 292-93 (Fed. Cir. 1983); *Johnson & Johnson v. W.L. Gore*, 436 F. Supp. 704, 726, 195 USPQ 487, 506 (D. Del. 1977); see also *In re Fessmann*, 489 F.2d 742, 744, 180 USPQ 324, 326 (CCPA 1974).

The thickness of the tubular shell 12 is substantially the same from the first to second end. The inner support structure 11 has a bore to accept 9.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 2-4, 7, 10, and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Winkler alone or over Winkler in view of Lesley (US3559782).

Winkler teaches the invention cited with the exception of joining together by welding, first and second assemblies to create the tubular shell. The shell of Winkler is made of one piece.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have made Winkler as several pieces, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Alternatively, Lesley teaches a two piece tubular shell welded 10 together.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Winkler as first and second assemblies welded together to create a tubular shell, in light of the teachings of Lesley, in order to facilitate easier assembly of the outer shell with respect to the cylindrical body.

Regarding claim 3, note the lip (to the right of lead line 7) of Winkler.

Regarding claim 7, note the circular band 6 formed of the same thin metal as the tubular shell 2 the thickness at lead line 2 is the same as the thickness of the band 6 of Winkler.

Regarding claims 10 and 14, with respect to the limitations pertaining to the shell being formed by “drawn” or “stamped” first and second thin-walled tubular shells, the patentability of product does not depend on its method of production. *In re Thorpe*, 777 F.2d 695, 697, 227 USPQ 964, 966 (Fed. Cir. 1985) (citing *In re Pilkington*, 411 F.2d 1345, 1348, 162 USPQ 145, 147 (CCPA 1969)). If a product in a product-by-process claim is the same as or obvious from a product in the prior art, the claim is unpatentable even though the prior product is made by a different process. *Id.* citing *In re Marosi*, 710 F.2d 799, 803, 218 USPQ 289, 292-93 (Fed. Cir. 1983); *Johnson & Johnson v. W.L. Gore*, 436 F. Supp. 704, 726, 195 USPQ 487, 506 (D. Del. 1977); see also *In re Fessmann*, 489 F.2d 742, 744, 180 USPQ 324, 326 (CCPA 1974).

7. **Claims 68-72** are rejected under 35 U.S.C. 103(a) as being unpatentable over Skates in view of Winkler.

Skates teaches that the outer shell is made of rubber (or polymeric material) and the inner layer is made of steel rather than the outer shell being made steel and the inner layer being made of polymeric material.

Winkler teaches a roller having an outer layer **2** made of steel and an inner layer **4** made of polymeric material.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Skates with the outer shell made of steel and the inner layer made of polymeric material, in light of the teachings of Winkler, in order to provide a resilient roller that withstands sever shock and impact loading as suggested by Winkler at col. 1, lines 20-22.

The roller of Skates is crown shaped and is considered to have a “lip” because the outer shell overlaps the inner layer. Also, Winkler teaches a lip **7**. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention to have provided a lip, in light of the teachings of Winkler, in order to facilitate holding of the inner layer.

8. **Claims 1, 18, and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Skates in view of Winkler.

Skates teaches that the outer shell is made of rubber (or polymeric material) and the inner

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layer is made of steel rather than the outer shell being made steel and the inner layer being made of polymeric material.

Winkler teaches a roller having an outer layer 2 made of steel and an inner layer 4 made of polymeric material.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Skates with the outer shell made of steel and the inner layer made of polymeric material, in light of the teachings of Winkler, in order to provide a resilient roller that withstands sever shock and impact loading as suggested by Winkler at col. 1, lines 20-22.

#### ***Allowable Subject Matter***

9. Claims 49, 50, 52-59, 61, and 73 are allowed.
10. Claims 5, 6, 8, 9, 11-13, and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

11. Applicant's arguments with respect to the rejected claims above have been considered but are moot in view of the new ground(s) of rejection.



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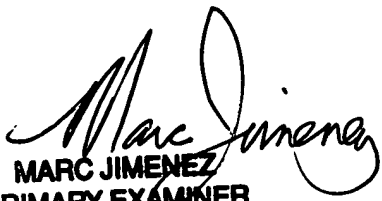
***Contact Information***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number (571) 272-4530. The examiner can normally be reached on Monday-Friday between 5:30 a.m.-2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ  
July 15, 2005

  
MARC JIMENEZ  
PRIMARY EXAMINER  
7/15/05